



LDS Aged Escrow Review Update

Update & Recommendation

Bill Hicks, Director, Land Development Services

March 13, 2018



- Refresher on Aged Escrow Review
- Progress Update
- Seek BOS Input

COUNTY OF FAIRFAX, VIRGINIA
OFFICE OF FINANCIAL AND
PROGRAM AUDIT



June 2017

Quarterly Report

FAIRFAX COUNTY BOARD OF SUPERVISORS
AUDITOR OF THE BOARD
www.fairfaxcounty.gov/boardauditor



County of Fairfax, Virginia

MEMORANDUM

DATE: MAR 01 2018

TO: Board of Supervisors

FROM: Bryan J. Hill
County Executive *B. Hill*

SUBJECT: Land Development Services (LDS) Response to Aged Escrow Review

REFERENCE: Board Matter 1a. June 2017 Quarterly Report of the Auditor of the Board

In preparation for the March 13, 2018 Development Process Committee (DPC) discussion, this memorandum serves to update the Board of Supervisors (BOS) on LDS's response to the Office of Financial and Program Audit's (OFPA) Review of Future Construction & Other Escrow Accounts, dated June 2017. Additionally, for discussion at the DPC meeting in March, LDS seeks input from the BOS regarding future construction escrow (FCE) age and value threshold, as well as LDS's actions in response to the OFPA review.

SUMMARY:

In June 2017, OFPA completed a review of LDS compliance, accounting, and fund recognition practices for aged future construction and other escrows, along with aged cash proffers held by LDS. The review identified areas of concern regarding the age of the escrow balances, as well as fund management. The review focused on the close-out processes and the final disposition of aged balances.

RESPONSE:

LDS collects and manages escrow and proffer funds through three, distinctly separate accounts: conservation escrows, cash proffers, and FCEs. Escrows in each account are managed (collected, maintained, and released or transferred) in accordance with state and local governing regulations and policy. LDS has worked closely with the Office of the County Attorney (OCA) to ensure that internal LDS policies and procedures are clear and comply with applicable regulations. The remainder of this memorandum summarizes LDS actions in the following order: conservation escrows, cash proffers, and FCEs. See Attachment 1 for a copy of the June 2017 Auditor of the Board Quarterly Report, annotated with LDS response actions and clarification.

Office of the County Executive
12000 Government Center Parkway, Suite 552
Fairfax, VA 22035-0066
703-324-2531, TTY 703-222-5494, Fax 703-324-3956
www.fairfaxcounty.gov



Aged Conservation
Escrows

LDS Aged Escrow
Review

Aged Future
Construction
Escrows

Aged Cash
Proffers

Aged Conservation Escrows

Deposits posted by developers to ensure proper E&S controls

LDS Aged Escrow Review

Aged Future Construction Escrows

Aged Cash Proffers

Aged Conservation Escrows

Conservation Escrows Key Variables	OFPA Review Scope	LDS Scope
Date Range	1997-2001	1977-present (where stabilization is documented)
Fund Value	\$6.4 million	\$34 million
Number of Escrows held	887	2,600

OFPA limited their review to 1997-2001 because LDS was already working with OCA on legal mechanisms to release the conservation escrows dating from 1977-1997.

Aged Conservation
Escrows

LDS Aged Escrow
Review

*A voluntary offer made by
a landowner during the
rezoning process to
donate money.*

Aged Future
Construction
Escrows

Aged Cash
Proffers



Aged Cash Proffers

Cash Proffer Key Variables	OFPA Review Scope	LDS Scope
Date Range	1985-2010	Same as audit
Fund Value	\$2.9 million	\$450,000 (\$2.5 million transferred since June 2017)
Number of Cash Proffers Held	138	28 remaining (141 Identified with 113 transferred/released to other agencies since June 2017)

Aged Conservation
Escrows

*Deposits posted by
developers to fund their
share of a future public
improvement*

LDS Aged Escrow
Review

Aged Future
Construction
Escrows

Aged Cash
Proffers



Aged Future Construction Escrows

FCE Key Variables	OFPA Review Scope	LDS Scope
Date range that should be addressed	1968-2002	1968-present
Fund Value	\$6.5 million	\$12 million
Number of escrows held	920	1,119

Aged Future Construction Escrows

Requested Input From the Board

- Define 'Aged'
- Define a Value Threshold below which all 'aged' future construction escrows will be released to the state.

Defining 'Aged'

Item	Aged	Reasoning
Conservation Escrows <i>(2,600 in total)</i>	30 days after county contact to owner regarding project completion	Clears books as soon as possible
Cash Proffers <i>(Currently 28 over 12 years in age)</i>	12 years	Follows state regulations
Future Construction Escrows <i>(1,119 over 12 years in age)</i>	12 years except: <ul style="list-style-type: none"> • Trees & Landscaping • Streetlight Conversions • Chapter 2 Roads 	<ul style="list-style-type: none"> • 12 years for consistency with proffers • Retains funds where practical for trees, landscaping and streetlights • Reflects the lengthy time horizon necessary to piece together road construction



Defining 'Aged'

Defining Aged For Future Construction Escrows

- 12 years for consistency with proffers.
- Retains funds where practical for trees, landscaping and streetlights.
- Reflects the lengthy time horizon necessary to piece together road construction.

LDS Response to Aged Escrow Review - ATTACHMENT 3

Land Development Services
Future Construction Escrows
Proposed Disposition Options

	TOTAL FUTURE CONSTRUCTION ESCROWS			OPTION 1*						OPTION 2**									
	# of Items	\$ Amount	Average \$	Release <\$5,000, No Special Exceptions			Retain and Research			Release <\$10,000, No Special Exceptions			Retain and Research						
				# of Items	\$ Amount	Average \$	# of Items	\$ Amount	Average \$	# of Items	\$ Amount	Average \$	# of Items	\$ Amount	Average \$				
EXCEPTIONS - ALWAYS RETAIN AND RESEARCH																			
Chapter 2 Roads	61	\$ 779,786	\$ 12,783	0	\$ -	\$ -	61	\$ 779,786	\$ 12,783	0	\$ -	\$ -	61	\$ 779,786	\$ 12,783	0	\$ -	\$ -	
Tree	2	\$ 19,197	\$ 9,599	0	\$ -	\$ -	2	\$ 19,197	\$ 9,599	0	\$ -	\$ -	2	\$ 19,197	\$ 9,599	0	\$ -	\$ -	
Landscaping	2	\$ 11,300	\$ 5,650	0	\$ -	\$ -	2	\$ 11,300	\$ 5,650	0	\$ -	\$ -	2	\$ 11,300	\$ 5,650	0	\$ -	\$ -	
Light-Conversion	1	\$ 4,300	\$ 4,300	0	\$ -	\$ -	1	\$ 4,300	\$ 4,300	0	\$ -	\$ -	1	\$ 4,300	\$ 4,300	0	\$ -	\$ -	
Bridge	2	\$ 34,900	\$ 17,450	0	\$ -	\$ -	2	\$ 34,900	\$ 17,450	0	\$ -	\$ -	2	\$ 34,900	\$ 17,450	0	\$ -	\$ -	
Frontage Improvements	115	\$ 2,226,738	\$ 19,363	56	\$ 74,768	\$ 1,335	59	\$ 2,151,970	\$ 36,474	72	\$ 177,993	\$ 2,472	43	\$ 2,048,745	\$ 47,645				
Streetlights	14	\$ 240,702	\$ 17,193	1	\$ 1,684	\$ 1,684	13	\$ 239,018	\$ 18,386	1	\$ 1,684	\$ 1,684	13	\$ 239,018	\$ 18,386				
Pond Construction	1	\$ 22,400	\$ 22,400	0	\$ -	\$ -	1	\$ 22,400	\$ 22,400	0	\$ -	\$ -	1	\$ 22,400	\$ 22,400				
Storm Sewer	116	\$ 300,121	\$ 2,587	104	\$ 120,335	\$ 1,110	12	\$ 179,786	\$ 14,982	110	\$ 157,835	\$ 1,435	6	\$ 142,286	\$ 23,714				
Site Silt Removal	1	\$ 5,000	\$ 5,000	0	\$ -	\$ -	1	\$ 5,000	\$ 5,000	1	\$ 5,000	\$ 5,000	0	\$ -	\$ -				
Bus Shelter	3	\$ 19,000	\$ 6,333	0	\$ -	\$ -	3	\$ 19,000	\$ 6,333	3	\$ 19,000	\$ 6,333	0	\$ -	\$ -				
Recreation Facility	1	\$ 6,100	\$ 6,100	0	\$ -	\$ -	1	\$ 6,100	\$ 6,100	1	\$ 6,100	\$ 6,100	0	\$ -	\$ -				
Road and Service Drive	636	\$ 7,305,521	\$ 11,487	325	\$ 616,808	\$ 1,898	311	\$ 6,688,713	\$ 21,507	451	\$ 1,496,584	\$ 3,318	185	\$ 5,808,937	\$ 31,400				
Trail and Sidewalk	150	\$ 764,152	\$ 5,094	91	\$ 168,724	\$ 1,854	59	\$ 595,428	\$ 10,092	113	\$ 314,452	\$ 2,783	37	\$ 449,700	\$ 12,154				
No Record of Escrow Purpose	14	\$ 535,195	\$ 38,228	7	\$ 9,654	\$ 1,379	7	\$ 525,541	\$ 75,077	11	\$ 34,854	\$ 3,169	3	\$ 500,341	\$ 166,780				
TOTALS	1119	\$ 12,274,413	\$ 10,969	584	\$ 991,973	\$ 1,699	535	\$ 11,282,440	\$ 21,089	763	\$ 2,213,503	\$ 2,901	356	\$ 10,060,910	\$ 28,261				

*Option 1 assumes that LDS will treat all future construction escrows **older than 12 years** and with a total individual value of **less than \$5,000** as unclaimed property. This translates to 584 escrows valued at \$991,973 released. After this process, 535 (48%) valued at \$11,282,440 of the future construction escrows will be retained by LDS for further research on escrow holder.

Option 2 assumes that LDS will treat all future construction escrows **older than 12 years and with a total individual value of **less than \$10,000** as unclaimed property. This translates to 763 escrows valued at \$2,213,503 released. After this process, 356 (30%) valued at \$10,060,910 of the future construction escrows will be retained by LDS for further research on escrow holder.



Defining a Value Threshold For Future Construction Escrows

- Total 1,119 Items totaling \$12.274,413
 - 66 items totaling \$814,583 remain in escrow
 - *Trees, Landscaping, Streetlights & Roads*
-
- Option 1 – Release all 584 items below \$5,000 to the state with further research.
 - Option 2 – Release all 763 items below \$10,000 to the state with further research.

EXCEPTIONS

Chapter 2
Tree
Landscap
Light-Con

Bridge
Frontage Imp

Streetlights

Pond Constru
Storm Sewer
Site Silt Remo

Bus Shelter
Recreation Fa

Road and Ser

Trail and Side

No Record of

TOTALS

*Option 1
this proces

**Option 2
After this p



Questions

